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The Legal Writing Survival Guide

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Rachel H. Smith

CAROLINA ACADEMIC PRESS

Durham, North Carolina

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Library of Congress Cataloging-in-Publication Data

Smith, Rachel H.
The legal writing survival guide / Rachel H. Smith.
p. cm.
Includes index.
ISBN 978-1-61163-145-6 (alk. paper)
1. Legal composition--United States. 2. Law--United States--Language. 3. Report writing--United States. I. Title.

KF250.S625 2012
808.06'634--dc23

2012015404

CAROLINA ACADEMIC PRESS
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

For Lipkin, Oscar, and Gus

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Acknowledgments

I am so grateful to my colleagues and friends who read the manuscript and provided helpful feedback: Jill Barton, Alyssa Drag-nich, Amy Rodriguez, Rosi Schrier, and David Switzer. In addition, thank you to all of my LComm colleagues for your encouragement. And thank you to Dean Patricia White and the University of Miami School of Law for supporting this book.

I am also grateful to my former colleagues at Santa Clara University School of Law and Quinn Emanuel Urquhart & Sullivan, LLP for teaching me so much about legal writing.

I am grateful to Julie Showers and David Deide for the graphics.

And I am grateful for my family. Thank you to Daniel Lipkin for being a great editor and for cracking me up. Thank you to Oscar the Cat and Gus the Cat for writing this book with me. Thank you to Shaina Feinberg for being a source of light. And thank you to my parents, Leah Rose Abrams and Gary L. Smith. I am lucky to have parents who love books and can answer grammar questions at any time of the day or night.

Last, I am grateful to my former and current students. You have inspired, tormented (you know who you are), amused, and delighted me. I wrote this book for you.

Introduction:

The Will to Survive

This book is about survival. Being a lawyer is hard. Doing the work of a lawyer is hard. Reading rules, analyzing facts, solving problems, and writing in a way that another person can understand is hard. I had days as a law student and a lawyer that I would swear were harder to survive than being lost in the Everglades, marooned in Antarctica, or adrift in the Indian Ocean. This book offers advice, processes, tips, and tactics to help you survive any legal writing project. They are all born of my real-life experience as a litigator at a large firm and as a legal writing professor.

Before we get any further, you should know that this book, like any survival guide, makes one fundamental assumption about its reader: that he or she *wants* to survive. Just by picking up this book, you have demonstrated the will to survive. You are not going to be the person who lies down in the snow on Mount Everest and tells the rest of the survivors to go on without you. You know the one: “I am so cold. I can’t go on. Leave me here. Oh, I see my Nana coming towards me. She is so beautiful...”

It may seem over the top to talk about “survival” in the context of writing legal documents. Obviously, there are people who actually worry every day about how to survive. Law students and lawyers occupy a place of comfort compared to so many others (even if that is easy to forget). And yes, we are deeply grateful for that good fortune. But in my experience, there were memos, motions, emails, and a million other documents that felt like a matter of life or death while I was writing them. I wrote this book with

the hope that I could help you have more perspective in those moments than I did.

I also wrote this book because I think that you can be a good legal writer, and that the writing that we do as lawyers is worthwhile. Being able to write in a way that communicates effectively and helps your client is a tremendous thing—and it *feels* tremendous to do it well, like having a super power. I imagine that surviving a zombie apocalypse or a rhinoceros attack feels the same way. I want you to have that feeling when you survive writing a legal document.

This book is for law students and lawyers who are in the midst of a struggle to survive with a legal document. If that describes you, I think that this book will help you and make your life easier. But here is my first tip: Even if you follow none of the steps in this book, even if you read this book (or don't) and then do the opposite of everything I suggest, you will still survive as long as you have a friend, or a cat, or a couch to go home to. Because that is how you really survive the stresses of this profession—by not neglecting your life away from your work computer. The way to survive is to remember the people, places, animals, books, and things you love. And keep your feet dry.

I wish the best for you in all of your adventures, legal writing and otherwise. Godspeed!